IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPEAL NO.655 OF 2003

The State of Maharashtra .. Appellant.
V/s.
Subhash Shripati Patil .. Respondent.

Mr. B.R. Patil, P.P. for the Applicant/State.

CORAM : S.B. MHASE &
ANOOP V.MOHTA, JJ.

DATE : 22ND NOVEMBER, 2004.

P.C.

. Heard Mr. Patil. We have perused the Judgment. Mr. Patil submitted that the only evidence on which conviction can be based is extra judicial confession deposed by Prabhavati (P.W. 2) and Shantabai (P.W. 7). However, the Sessions Judge has not accepted the extra judicial confession on two grounds firstly, that both these witnesses are close relatives, namely mother and sister-in-law of the deceased Shakubai. Apart from that, the other reason assigned is that according to the Sessions Judge, it is unnatural and improbable that the accused, while leaving the said place of offence, as disclosed by the said witnesses, that the accused has throttled the wife Shakubai and thereafter have set her on fire, so as to destroy the evidence. The accused has

taken the precaution to destroy the evidence of throttling, the improbability expressed by the Sessions Judge is acceptable to us. But we find that the possible view on the basis of the evidence available has been taken by the Sessions Judge, which does not call for interference by this Court and therefore, the leave to appeal is hereby rejected.

. Parties concerned to act on a simple copy of this order, duly authenticated by the Registry of this Court.

[ANOOP V. MOHTA, J.] **[S.B.MHASE, J.]**